

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William MacLure	Team: Squad #6	CCRB Case #: 201709627	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 11/09/2017 , Friday, 11/10/2017 5:30 AM	Location of Incident: [REDACTED]	Precinct: 120	18 Mo. SOL 5/10/2019	EO SOL 5/10/2019	
Date/Time CV Reported Mon, 11/13/2017 11:45 AM	CV Reported At: IAB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 11/20/2017 11:00 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DT2 Jason Miller	02120	931829	NARCBSI
2. DT3 Vincent Agostino	3764	945355	NARCBSI
3. An officer			NARCBSI

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SDS Kenneth Tysdal	03827	915998	NARCBSI

Officer(s)	Allegation	Investigator Recommendation
A.DT2 Jason Miller	Abuse: Detective Jason Miller entered § 87(2)(b) [REDACTED] in Staten Island.	[REDACTED]
B.DT2 Jason Miller	Abuse: Detective Jason Miller searched § 87(2)(b) [REDACTED] in Staten Island.	[REDACTED]
C.DT2 Jason Miller	Force: Detective Jason Miller used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D.DT3 Vincent Agostino	Force: Detective Vincent Agostino used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On November 13, 2017, § 87(2)(b) filed this complaint with IAB in person. This case was received at the CCRB on November 20, 2017.

On November 10, 2017, at approximately 6:05 a.m., Det. Jason Miller, Sgt. Kenneth Tysdal, Det. Vincent Agostino, and additional officers of Staten Island Narcotics executed a search warrant at § 87(2)(b) in Staten Island, entering and searching the location (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). Det. Miller and Det. Agostino went into the basement of the house, where § 87(2)(b) was staying. Det. Miller and Det. Agostino instructed § 87(2)(b) to get on the ground and then began striking his back (**Allegations C and D: Force**, § 87(2)(g)). While § 87(2)(b) was on the ground, he repeatedly told the officers that they had the wrong person. An officer told § 87(2)(b) “Shut the fuck up. Stay down,” (**Allegation E: Discourtesy**, § 87(2)(g)). § 87(2)(b) was arrested for criminal possession of a controlled substance and unlawful possession of marijuana.

There was no video of this incident because none of the officers were assigned BWC and there were no cameras inside the house.

Findings and Recommendations

Allegation (A) Abuse of Authority: Detective Jason Miller entered
§ 87(2)(b) **in Staten Island.**

Allegation (B) Abuse of Authority: Detective Jason Miller searched
§ 87(2)(b) **in Staten Island.**

§ 87(2)(b) was interviewed at the CCRB on December 6, 2017 (Board Review 01). On November 10, 2017, at approximately 6:05 a.m., § 87(2)(b) was sleeping inside his home, located in the basement of § 87(2)(b) in Staten Island. § 87(2)(b) had a verbal agreement with the landlord and did not have a mailbox at the location. § 87(2)(b) heard a loud “boom boom” noise upstairs and realized that it might be the police. Approximately five minutes later, Det. Miller and Det. Agostino came into the basement.

Det. Jason Miller was interviewed at the CCRB on April 3, 2018 (Board Review 02). Det. Miller was the investigating officer on the judge signed warrant allowing officers to search the entire house located at § 87(2)(b) in Staten Island. On November 10, 2017, at approximately 6:05 a.m., Det. Miller executed the search warrant with the Staten Island Narcotics Major Case Team.

Richmond County Search Warrant § 87(2)(b), authorizing officers to search the entire house located at § 87(2)(b) in Staten Island, between the hours of 6:00 a.m. and 9:00 p.m., within 10 days of being issued.

Officers may forcibly enter a location and search the premises pursuant to a valid search warrant, New York State Criminal Procedure Law, Section 690.50, (Board Review 13).

§ 87(2)(g), § 87(2)(b)

Allegation (C) Force: Detective Jason Miller used physical force against § 87(2)(b)

Allegation (D) Force: Detective Vincent Agostino used physical force against § 87(2)(b)

§ 87(2)(b) (Board Review 01) was “rushed” by Det. Miller and Det. Agostino, who instructed him to get on the ground. § 87(2)(b) immediately got on the ground where he was face down on his knees with his hands on the ground above his head. Det. Miller and Det. Agostino began striking § 87(2)(b) five times with what he suspected were metal objects, but he could not see because he was face down and it was dark. § 87(2)(b) later noticed that he was bleeding from his shoulder, bleeding from his lip, and had a bump on his head. § 87(2)(b) did not know exactly how he sustained these injuries. § 87(2)(b) obtained medical treatment at § 87(2)(b) after he was released from stationhouse.

Det. Miller (Board Review 02) went into the basement of § 87(2)(b) with Det. Agostino. When they entered the basement, Det. Miller observed § 87(2)(b) move towards a door that led to the backyard. Det. Miller thought § 87(2)(b) was startled when Det. Miller and Det. Agostino entered the basement. Det. Agostino placed § 87(2)(b) into handcuffs while § 87(2)(b) was standing without incident. § 87(2)(b) was compliant with being handcuffed and no officer used force against him. § 87(2)(b) was never instructed to get on the ground. No officers struck § 87(2)(b) on his back at any point. Det. Miller and Det. Agostino were the only officers in the basement when § 87(2)(b) was placed into handcuffs.

Det. Vincent Agostino was interviewed at the CCRB on May 9, 2018 (Board Review 04). Det. Agostino’s statement was consistent with Det. Miller’s statement.

§ 87(2)(b) provided the CCRB with photos he stated he took on November 10, 2017 (Board Reviews 05 through 07). The photos show an abrasion to his left shoulder, a small laceration on his upper lip, and a bump on his head.

§ 87(2)(b) declined to complete HIPAA forms at the time of his interview. Therefore, medical records could not be obtained.

There are no visible injuries in § 87(2)(b)’s arrest photo (Board Review 08).

§ 87(2)(b)’s arrest report (Board Review 09) noted that no force was used.

§ 87(2)(g), § 87(2)(b)

Allegation (E) Discourtesy: An officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) (Board Review 01) told the officers repeatedly that they had the wrong person and they made a mistake, while he was on the ground. An officer told § 87(2)(b) “Shut the fuck up. Stay § 87(2)(b)” did not know who told him this.

Det. Miller (Board Review 02) denied that he ever told § 87(2)(b) to “shut the fuck up,” or used any profanity while speaking with § 87(2)(b). Det. Miller did not hear any officer use profanity or tell § 87(2)(b) to “shut the fuck up.”

Det. Agostino (Board Review 04) denied that he ever told § 87(2)(b) to “shut the fuck up,” or heard any other officer do so. No officer ever used profanity while speaking with § 87(2)(b).

Sgt. Kenneth Tysdal was interviewed at the CCRB on May 8, 2018 (Board Review 10). Sgt. Tysdal entered the basement within one minute of Det. Miller and Det. Agostino. When he entered the basement, Det. Miller and Det. Agostino were standing with § 87(2)(b) who was standing and handcuffed. Sgt. Tysdal never used profanity with § 87(2)(b) and never told § 87(2)(b) to “shut the fuck up.” Sgt. Tysdal did not hear any officer use profanity while speaking with § 87(2)(b)

§ 87(2)(g), § 87(2)(b)
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Civilian and Officer CCRB Histories

- This was § 87(2)(b)'s first complaint with the CCRB (Board Review 11).
- Det. Miller had 11 allegations stemming from seven complaints over his 15 year tenure with the CCRB. None of the allegations were substantiated. Det. Miller had three physical force allegations against him.
- Det. Agostino had 21 allegations stemming from eight cases over his 10 year tenure with the NYPD. One allegation of a vehicle stop in case number 201600455 was substantiated and Det. Agostino received formalized training. Det. Agostino had one previous physical force allegation against him.

Mediation, Civil and Criminal Histories

- § 87(2)(b) § 87(2)(b) never responded to whether or not he wanted to mediate his complaint.
- § 87(2)(b) had no criminal convictions in the last 10 years. § 87(2)(b) § 87(2)(b)

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date